

AMENDED IN ASSEMBLY MAY 11, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 333

Introduced by Assembly Member Grove

February 10, 2011

An act to add Section 38598.5 to the Health and Safety Code, relating to air pollution, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 333, as amended, Grove. California Global Warming Solutions Act of 2006: ~~unemployment~~. *cap-and-trade program.*

The

(1) The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The act authorizes the state board, in furtherance of achieving the statewide greenhouse gas emissions limit by January 1, 2011, to adopt a regulation that establishes a system of market-based declining annual aggregate emission limits for sources or categories of sources that emit greenhouse gas emissions, applicable from January 1, 2012, to December 31, 2020, inclusive, that the state board determines will achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions, in the aggregate, from those

sources or categories of sources. The act also authorizes the state board to include in its regulations the use of market-based compliance mechanisms to comply with the regulations, subject to prescribed requirements.

This bill would require the state board to exempt from an emission reduction requirement adopted pursuant to the act an emissions source located within a county that on January 1, 2012, has an unemployment rate of 7% or greater, until that county's unemployment rate drops below 7% for 6 consecutive months make findings and submit a status report to the Legislature no later than July 31, 2011, on the readiness of a proposed cap-and-trade program to begin January 1, 2012. The bill would authorize the board, if it makes a specified finding in the status report, to commence the cap-and-trade program after January 1, 2012, but no later than January 1, 2013. The bill would require the board to provide an annual cap-and-trade status report to the Legislature.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: majority^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares all of the*
 2 *following:*
 3 *(a) On December 16, 2010, the State Air Resources Board*
 4 *adopted a cap-and-trade regulation under authority granted by*
 5 *the California Global Warming Solutions Act of 2006, to become*
 6 *effective January 1, 2012, as required by that act.*
 7 *(b) Cap and trade is a significant program that will provide an*
 8 *estimated 20 percent of the emission reductions required to achieve*
 9 *1990 emission levels by 2020, as required by the act.*
 10 *(c) Many components of the cap-and-trade regulation are not*
 11 *yet complete, which is creating uncertainty for regulated parties*
 12 *and potential harm if the program were to start before all elements*
 13 *are in place with sufficient time for regulated parties to prepare.*
 14 *(d) The State Air Resources Board adopted Resolution 10-42*
 15 *to require that its executive officer report to it no later than July*
 16 *31, 2011, on the progress being made on program implementation.*
 17 *(e) It is in the interest of this state that the State Air Resources*
 18 *Board be provided the flexibility to start the cap-and-trade*

1 *program at a later date if it determines that the program is not*
2 *ready to start on January 1, 2012.*

3 *SEC. 2. Section 38598.5 is added to the Health and Safety*
4 *Code, to read:*

5 *38598.5. (a) The state board shall make findings and submit*
6 *a status report to the Legislature no later than July 31, 2011, on*
7 *the readiness of the cap-and-trade program to begin January 1,*
8 *2012, pursuant to this division. The findings shall include*
9 *information on the status of the following:*

- 10 *(1) Finalization of the allowance allocation system.*
- 11 *(2) Assessment of issues related to the treatment of biomass and*
12 *biofuel emissions in the cap-and-trade program, including*
13 *consideration of air quality impacts in the San Joaquin Valley.*
- 14 *(3) Implementation of cap-and-trade programs by other Western*
15 *Climate Initiative partner jurisdictions, and the expected timing*
16 *of board consideration of linking with Western Climate Initiative*
17 *partner programs.*
- 18 *(4) Implementation of a market tracking system, and a schedule*
19 *for initial deployment of the system and making training available*
20 *for covered entities and others that will need to register in the*
21 *system and use it for participating in the program.*
- 22 *(5) Implementation of an auction system.*
- 23 *(6) Implementation of an offset tracking system, and information*
24 *on any entities that have indicated an interest in applying to*
25 *become third-party registries under the cap-and-trade regulation.*
- 26 *(7) Efforts to address potential issues associated with the air*
27 *district development of offset projects using offset protocols verified*
28 *by the state board that are verified by a third party.*
- 29 *(8) Work with other agencies and other interested parties on*
30 *market oversight, including any market simulation efforts.*
- 31 *(9) Efforts to solicit expert advice on the design of the market*
32 *to ensure that it is protected and ensure the ongoing proper*
33 *operation of the market.*
- 34 *(10) Review of additional compliance offset protocols and the*
35 *schedule for bringing them to the state board for consideration.*
- 36 *(11) Estimates of expected offset supply during the first*
37 *compliance period based on the four compliance protocols that*
38 *are part of the rulemaking and on additional protocols that are*
39 *currently under review.*

1 (12) *Assessment of impacts of federal climate policies on sources*
2 *covered by the cap-and-trade program, such as potential conflicts,*
3 *duplication, or misaligned incentives.*

4 (13) *Efforts to develop mechanisms to measure emissions and*
5 *economic leakage from cap-and-trade and other regulations under*
6 *this division.*

7 (14) *An analysis of impact of a one-year delayed start date for*
8 *cap and trade on the ability to meet the 2020 target for emission*
9 *reductions.*

10 (15) *Identification of any remaining tasks that must be completed*
11 *before the start of the cap-and-trade program, and a schedule for*
12 *completing these tasks.*

13 (b) *If the state board finds in the status report to the Legislature*
14 *pursuant to subdivision (a) that an adjustment to the start date for*
15 *the cap-and-trade program is appropriate to ensure successful*
16 *implementation of cap-and-trade regulation, the state board may*
17 *commence the cap-and-trade program after January 1, 2012, but*
18 *no later than January 1, 2013.*

19 (c) *Ninety days after the first anniversary of the start date of*
20 *the cap-and-trade program, and annually thereafter, the state*
21 *board shall submit a cap-and-trade status report to the Legislature,*
22 *including findings on the following:*

23 (1) *Information on the operation of the state program and any*
24 *linked programs.*

25 (2) *Actions being taken by covered entities to comply with the*
26 *program.*

27 (3) *Information on shifts in business activity that may result in*
28 *emissions leakage and changes in market share for covered entities*
29 *and sectors.*

30 (4) *Shifts in fuel use in different sectors, including information*
31 *on the use of electricity in the transportation sector, and the use*
32 *of biofuels and biomass.*

33 (5) *Program effects on small businesses and on low-income*
34 *households.*

35 (6) *Any sales of allowances from the allowance reserve.*

36 (7) *The supply of offset credits registered in the board's tracking*
37 *system, approved third-party registries, or the tracking systems of*
38 *linked programs.*

39 (8) *The expected offset supply from projects listed on these*
40 *systems, including the geographic locations of listed offset projects.*

1 (9) Any changes to linked cap-and-trade programs.
2 (d) (1) The requirement for submitting a report imposed under
3 subdivisions (a) and (c) is inoperative on January 1, 2016, pursuant
4 to Section 10231.5 of the Government Code.

5 (2) A report submitted pursuant to subdivision (a) or (c) shall
6 be submitted in compliance with Section 9795 of the Government
7 Code.

8 SEC. 3. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety within
10 the meaning of Article IV of the Constitution and shall go into
11 immediate effect. The facts constituting the necessity are:

12 In order to obtain necessary information and ensure the timely
13 and appropriate implementation of portions of the Global Warming
14 Solutions Act of 2006 by the State Air Resources Board, it is
15 necessary for this act to take effect immediately.

16 SECTION 1. ~~Section 38598.5 is added to the Health and Safety~~
17 ~~Code, to read:~~

18 ~~38598.5. The state board shall exempt from an emission~~
19 ~~reduction requirement adopted pursuant to this division an~~
20 ~~emissions source located within a county that on January 1, 2012,~~
21 ~~has an unemployment rate of 7 percent or greater, until that~~
22 ~~county's unemployment rate drops below 7 percent for six~~
23 ~~consecutive months. The exemption created pursuant to this section~~
24 ~~shall not return if the unemployment rate rises above 7 percent at~~
25 ~~a later time.~~